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New York

President:	Mr. Rycroft	(United Kingdom of Great Britain and Northern Ireland)
Members:	Angola	Mr. Lucas
	Chad	Mr. Gombo
	Chile	Mr. Barros Melet
	China	Mr. Zhao Yong
	France	Mr. Stehelin
	Jordan	Mr. Hmoud
	Lithuania	Mrs. Juodkaitė Putrimienė
	Malaysia	Mrs. Adnin
	New Zealand	Mr. Van Bohemen
	Nigeria	Mr. Laro
	Russian Federation	Mr. Zagaynov
	Spain	Mr. González de Linares Palou
	United States of America	Ms. Sison
	Venezuela (Bolivarian Republic of)	Mr. Ramírez Carreño

Agenda

The situation in Libya

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The meeting was called to order at 9.30 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in Libya

The President: In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of Libya to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

In the spirit of the Council's working methods as set out in document S/2010/507, I would kindly request the briefer this morning to keep her remarks to no longer than 15 minutes, and Council members to deliver their statements within a five-minute period.

I now give the floor to Prosecutor Bensouda.

Ms. Bensouda: I wish at the outset to thank the Council for this opportunity to address it on the situation in Libya. This is the tenth occasion on which I am providing this briefing since the referral of the situation to my Office in February 2011.

Libya has been embroiled in a seemingly endless cycle of violence, large-scale commission of crimes and chronic instability, with serious and debilitating ramifications for not only the proper functioning of State institutions, but also the human rights landscape in the country.

The breakdown of law and order induced by incessant conflict and political divide has resulted in an increase in the number of violations of international human rights and international humanitarian law. In such an environment, national efforts aimed at strengthening accountability for atrocity crimes and establishing the rule of law face great challenges.

But from trial and tribulation comes hope. As we are gathered here today, the Libyan people's long ordeal may soon see a redirection towards a more promising future for Libya. Thanks to the tireless efforts of the United Nations Support Mission in Libya (UNSMIL), and to the strength and commitment of the Libyan people, significant progress has recently been made towards the goal of achieving peace and stability in the country through the creation of a Government of national unity.

The ongoing national dialogue, facilitated by the United Nations, aimed at the establishment of a Libyan Government of national accord, represents hope for a transition to national unity and durable peace, and it carries important promise for Libya's efforts in the promotion of the rule of law, the protection of civilians and the ending of impunity for atrocity crimes.

Any such initiative that is embraced by the Libyan people and achieves these laudable goals, including paying homage to justice as a critical pillar of sustainable peace, is, of course, welcomed by my Office.

In yet another important development of note, UNSMIL has facilitated successful talks towards the resolution of the Tawergha issue. The agreement reached in Tunis in September to develop strategies for the return of the Tawergha as well as to establish clear plans for reparations to the victims is a welcome development.

It is particularly noteworthy that the Misrata/Tarwergha Joint Committee affirmed its full support for the political dialogue and the formation of a Government of national accord so as to meet the aspirations of the Libyan people to establish the rule of law, end the conflict and safeguard Libyan unity.

The era of accountability and the rule of law, as a basis on which the future of the country can be built, may indeed be within reach for the Libyan people. We, as a collective, cannot fail the Libyan people by standing idly by as the country degenerates into chaos and further instability. My Office is ready to fully play its part in accordance with the Rome Statute by ensuring accountability for atrocity crimes in Libya. To that end, the Council's tangible support remains crucial.

As indicated in my Office's tenth report to the Council, a significant body of material provided by the Libyan authorities in late December 2014 continues to be reviewed, analysed and investigated, resulting in investigative progress towards shedding light on instances of atrocity crimes allegedly committed in Libya. Our cooperation with the Libyan authorities in obtaining the relevant materials continues. I stress the importance of undertaking investigations with respect to the ongoing crimes in Libya and reiterate my Office's every desire to do so. To that end, the Office requested resources for additional investigations as part of its 2016

proposed budget, to be considered by the States parties to the International Criminal Court (ICC). However, there are indications that those resources will likely not be forthcoming. As such, resource constraints in 2016 will impede the Office's ability to conduct these additional investigative activities.

It is of paramount importance that the ongoing crimes committed by different actors in Libya be investigated and that my Office be provided with the requisite resources to undertake these necessary investigations in accordance with its mandate. My Office therefore relies on the critical financial support of States parties in this regard, and I take this opportunity to call on them to provide this crucial funding. I equally and strongly invite the Council to seriously consider assisting the Office, in accordance with article 115(b) of the Rome Statute, to obtain the resources required for the effective investigation of alleged crimes committed in a situation that has been referred to the Court by this body.

Devising innovative and effective strategies and action plans on how to give meaning to the provisions of article 115(b) of the Rome Statute is essential.

Turning to the cases of the accused, Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi, the Council will recall that the Appeals Chamber of the ICC affirmed the admissibility of the case against Saif Al-Islam Al-Qadhafi on 21 May 2014 and the inadmissibility of the case against Al-Senussi on 24 July 2014. To date, despite the repeated demands of my Office, Saif Al-Islam Al-Qadhafi has not been surrendered to the custody of the ICC. The Libyan authorities must heed the Council's calls for cooperation and comply with the Court's request to immediately surrender Saif Al-Islam Al-Qadhafi to the ICC. The Libyan authorities are under a clear legal obligation to do so, and remain non-compliant by failing to surrender him into ICC custody.

As Council members are aware, on 28 July the Tripoli Court of Assize sentenced both Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi, among other co-defendants, to death for the crimes they allegedly committed during Libya's 2011 uprising. This was an issue of concern, as my Office is still calling upon Libya to surrender Al-Qadhafi to the ICC while it has continued to monitor and collect information to enable it to determine whether there are new facts that may support an application for review under article 19 (10) of the Rome Statute of Pre-Trial Chamber I's decision finding the *Al-Senussi* case inadmissible before the Court.

My Office was also deeply concerned by videos of alleged acts of torture against Saadi Al-Qadhafi at Al-Hadba prison, which circulated online in August. Reports of alleged acts of torture or similar inhumane acts at the prison are relevant to the *Al-Senussi* case in the context of articles 17 and 19 (10) of the Rome Statute. My Office is currently investigating the circumstances depicted in the videos, including by seeking information from Libya and reviewing and assessing the materials already furnished by the Libyan authorities.

In its latest correspondence to my Office dated 23 October 2015, and in subsequent recent meetings with my team and myself directly, Libyan authorities have assured my Office that these allegations are being pursued, and that meaningful and concrete actions have and will continue to be taken in this regard. In addition, the Libyan authorities have provided my Office with documents related to their investigations into the alleged criminal events at the prison. Our initial assessment of the information provided gives hope for optimism about these national efforts. My Office will continue its constructive engagement with the Libyan authorities to ensure that the requisite information is provided for its own assessment of Rome Statute requirements.

It is also important to highlight the fact that on 30 July 2015, my Office filed a request with the Pre-Trial Chamber seeking an order directing Libya to refrain from executing Saif Al-Islam Al-Qadhafi, to immediately surrender him to the Court, and to report his death sentence to the Council. In its response on 20 August 2015, Libya explained that the death sentence against Saif Al-Islam Al-Qadhafi was non-enforceable in Libya because his trial was held in absentia, and that he will enjoy an absolute right to a new trial when he is transferred from Zintan into the custody of the Libyan authorities. Libya acknowledged that Saif Al-Islam Al-Qadhafi was not in its custody.

In relation to the *Al-Senussi* case, my Office continues to monitor proceedings at the national level and to collect information to enable it to determine whether there are new facts in support of an application for a review of the decision on the admissibility of the case. It is worth emphasising that, under article 19 (10) of the Rome Statute, my Office can submit a request for review of the Pre-Trial Chamber's decision only if it is fully satisfied that there are new facts that negate the

basis of that decision. The Appeals Chamber of the ICC has held that, for due process violations in a domestic trial to lead to a case being deemed admissible before the ICC, the violations must be so egregious that the proceedings can no longer be regarded as being capable of providing any genuine form of justice to the accused. To that end, my Office sought and is carefully analysing information on the progress of the proceedings against Mr. Al-Senussi from UNSMIL, Human Rights Watch and the Libyan authorities.

My Office currently awaits the full UNSMIL report on the Libyan trial of Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi and the trial judgment, and will continue to follow the situation and to collect and analyse information with a view to determining whether to seek the Chamber's review of the admissibility of the *Al-Senussi* case. My Office's assessment of the information at its disposal at this stage is that it does not support an application for a review of the Pre-Trial Chamber's decision an the admissibility of the case against Al-Senussi. This position is necessarily limited to the information the Office currently has in its possession and is subject to change in accordance with reliable information that it may receive in the future.

My Office continues to monitor the situation in Libya and is concerned that large-scale crimes, including those under ICC jurisdiction, are being committed by all parties to the conflict. I remain equally concerned that all sides — including the Libyan national army, Libya Dawn and the so-called Islamic State in Iraq and the Levant (ISIL) and their respective allies, and international actors — continue to commit attacks resulting in civilian casualties. Examples of these crimes have been set out in detail in my tenth report to the Council. My Office recalls that those responsible for these crimes can be prosecuted either at the national level or at the ICC. I reiterate here my Office's willingness and commitment to undertaking further investigations in Libya, but stress once again the need for States parties and the Council to ensure adequate funding to my Office for this purpose.

Pursuant to resolution 1970 (2011), the Council decided that

> "the Libyan authorities shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution" (*resolution 1970 (2011), para. 5*).

This important declaration has been reiterated in subsequent resolutions of the Council. Continued cooperation, consultation and coordination between my Office and the Libyan authorities remain crucial for the implementation of the memorandum of understanding concluded in November 2013 on burden-sharing regarding investigations and prosecutions in Libya.

The Office appreciates the cooperation it continues to receive from both States parties and non-States parties, as well as international organizations, in the Libya situation, and we look forward to strengthening efforts and synergies to assist Libyan authorities in their efforts to build the rule of law in Libya. In this regard, I reiterate my previous calls for assistance to Libya in strengthening its national capacity to respond to Rome Statute crimes through the formation of an international contact group on justice issues.

The recent gains towards the establishment of the Libyan Government of national accord and national unity may indeed increase the prospects for reviving discussions on this proposal in the near future. Similarly, I appeal to all other States that have not yet done so to engage and cooperate with my Office. Some of the evidence and persons of interest to my Office are located outside of Libya and can be accessed only through the cooperation of States. Ending impunity for atrocity crimes in Libya is an important goal that is both achievable and necessary for sustainable peace and stability in the country. It is also a goal that only be met can through the joint action, commitment and substantial support of all the relevant actors.

The President: I thank Prosecutor Bensouda for her briefing.

I shall now give the floor to the members of the Council.

Mr. Laro (Nigeria): I thank Prosecutor Bensouda for her briefing. We commend the International Criminal Court (ICC) for its significant contributions to the development of substantive and procedural international criminal law. We also recognize the important contributions of the Court to the promotion of the rule of law.

Nigeria commends the Libyan Prosecutor General and the Libyan representative to the ICC for their close cooperation with the Office of the Prosecutor. We welcome the exchange of information between the Libyan Prosecutor-General's Office and the Office

of the Prosecutor and commend the commitment and professionalism of the Libyan national investigators. We encourage the two sides to strengthen their cooperation and work together to end impunity in Libya.

With regard to Saif Al-Islam Al-Qadhafi, we note the Pre-Trial Chamber's decision of 31 May 2013, confirmed by the 21 May 2014 decision of the Appeals Chamber, that his case is admissible. Therefore, as a State party to the Rome Statute, Libya has a legal obligation to surrender him to the Court.

Concerning Abdullah Al-Senussi, we note the decision of the Court that his case is inadmissible. We also note the ongoing efforts by the Office of the Prosecutor to monitor his trial in Libya for new facts that may support a reversal of the Court's decision concerning the admissibility of his case.

We note the progress that the Office of the Prosecutor has made in the ongoing investigation in Libya. That is particularly significant in the light of the difficult security situation in the country and the limited resources available to the Office. We commend the Office for investigating the crimes committed by different parties in Libya, including those committed by terrorist groups that are taking advantage of the political and security vacuum in the country. That is consistent with resolutions 2213 (2015) and 2238 (2015).

We condemn all mass executions, including that of 30 Ethiopian Christians, by the Islamic State in Iraq and Syria (ISIS). We also condemn the abductions by ISIS and other terrorist groups. We call for an immediate and unconditional ceasefire across Libya. Parties involved in the conflict should refrain from targeting civilians or civilian targets and should desist from committing atrocity crimes. We call on all Libyan militias to disarm and participate in the efforts to restore peace, law and order in the country. We support the political dialogue and the formation of a Government of national accord in order to meet the aspirations of the Libyan people, establish the rule of law, end the conflict and safeguard Libyan unity. That is vital to stabilizing the country and ending the impunity of terrorist groups and militias.

On the issue of resources, we note with concern that resource constraints might hinder the Office's ability to conduct additional investigative activities in 2016. We therefore call upon States parties to provide the funding required by the Office to undertake the necessary investigations in accordance with its mandate.

Finally, we call on key partners of Libya to provide the necessary support to the Libyan authorities for the purpose of restoring security in the country, protect civilians and strengthen capacity in the areas of justice and the rule of law.

Mr. Lucas (Angola): I would like to begin by wishing you, Mr. President, and the delegation of the United Kingdom success in your presidency of the Security Council. We also congratulate the Spanish delegation for their excellent work during their presidency in October. We thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, for her briefing on the tenth report submitted according to the provisions of resolution 1970 (2011).

Four months have passed since the previous report and debate of the Security Council on this issue. The report just presented reveals very little progress in the implementation of the memorandum of understanding, which is an important requirement for judicial cooperation between the Office of the Prosecutor and the Libyan authorities. The current political and security environment in Libya, marked by an institutional crisis and escalating violence, has impeded cooperation and the necessary assistance to the Court and to the Prosecutor's Office within the framework of resolution 1970 (2011). Extremist terrorist groups joined by foreign terrorist fighters, political and military factions and militias have created mayhem in the country. They attack civilians indiscriminately and commit egregious crimes such as abductions and mass executions. Against a backdrop of lawlessness and chaos, the conditions do not exist to investigate and prosecute the perpetrators of such atrocity crimes, which the Statute of the International Criminal Court specifies as the primary responsibility of national authorities. However, it is obvious that in Libya there are no conditions to apply due process and fair trials.

Information provided by the Office of the United Nations High Commissioner for Human Rights that detention facilities are illegally operated by various factions to the conflict is a matter of the utmost concern. The fact that thousands of people, including foreign citizens and children under 18, have been detained and exposed to ill-treatment, torture and sexual and gender-based violence — and, in the case of foreign detainees, subject to extortion in exchange for freedom — reveals the chaotic state of affairs of the Libyan justice system. We believe that only peace and stability will allow

Libya to have a normal system of justice and efficient judicial institutions.

We therefore reiterate our support for the efforts of the United Nations and the international community to continue to work with Libyan parties to reach a political settlement to the conflict. We urge them to respect the political agreement announced on 8 October by Special Representative of the Secretary-General Bernardino León, based on the conviction that Libya's ability to face the challenges of the future and build a peaceful society will ultimately depend upon political stability and State institutions based on the rule of law.

Mr. Barros Melet (Chile) (*spoke in Spanish*): As this is the first time this month that I speak in a public meeting, I would like to commend the delegation of Spain on its outstanding presidency of the Security Council last month. We also express to you, Sir, our determination to support you resolutely during this month.

We once again express our gratitude for the presence of the Prosecutor of the International Criminal Court, Ms. Fatou Bensouda, and value the presentation of her tenth report on Libya, in fulfilment of resolution 1970 (2011). My delegation, aware of the many difficulties being experienced by Libya and worried about the escalation of violence, shares the view that justice and accountability are essential to achieving sustainable and lasting peace.

Several delegations, as well as the United Nations High Commissioner for Human Rights himself, have expressed concern about the high number of civilian deaths due to acts committed by various armed groups, especially those attributed to terrorist groups associated with the self-styled Islamic State. It is imperative to stop indiscriminate attacks and acts of kidnapping, torture, sexual violence and other cruel and degrading treatment, which should be the subject of serious and transparent investigations. That is why we encourage the efforts of the parties, with the help of United Nations, to set up a Government of national accord that will contribute to the necessary stability and to put an end to impunity.

Chile believes it is a duty to continue to insist on full cooperation with the International Criminal Court and its Prosecutor, pursuant to the provisions of resolution 1970 (2011). We also believe that the Libyan authorities must comply with their obligations under international law and cooperate with the Office of the Prosecutor as called for in resolutions 2174 (2014) and 2213 (2015). Moreover, we urge, on the one hand, that Saif Al-Islam Al-Qadhafi be made immediately available to the Court and, on the other, that Abdullah Al-Senussi and other individuals receive guarantees of due process in Libya. Without that happening, international justice will lack the trust required to achieve its ends.

My country would also like to support the Prosecutor's call on the Council to make available resources to facilitate investigations referred to the Court in line with the provisions of article 115 (b) of the Rome Statute. Given the direct impact of the financial aspect on the work of the Office of the Prosecutor, we also believe that, together with the specific proposal of the Prosecutor, complementary formulas for financing should be applied, making it possible for that Office to carry its investigations forward in an effective and efficient fashion. That is a central concern.

In that vein, Chile will continue to work for a closer relation between the Council and the International Criminal Court, especially with regard to the two cases referred so far As we have expressed on earlier occasions, we are convinced that referrals are not an end in themselves. We repeat that it is the responsibility of the Council to conduct an effective follow-up, in compliance with the mandate given to the Court.

Finally, we wish to reiterate our recognition of the work of the Office of the Prosecutor in the investigation of the abuses and crimes committed against victims in different parts of Libya and its contribution to the process of strengthening a more just, inclusive and resilient Libyan society.

Mr. Gombo (Chad) (*spoke in French*): At the outset, I wish to convey my gratitude to the delegation of Spain for its leadership in the work of the Council during the month of October. I also wish to congratulate you, Sir and your country, the United Kingdom, for directing our work this month. I would like to convey my gratitude to Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her briefing.

The security situation and the political and human rights situations in Libya remain alarming and continue to deteriorate as a result of ongoing violence and of serious violations of individual rights and freedoms. We do understand and indeed we share the concerns expressed in the report being considered — concerns regarding acts of torture and other degrading treatment of which a number of detainees have been victims. We

encourage further steps to be undertaken to clarify the situation, with the assistance of the Libyan Government. In that respect, we encourage efforts aimed at carrying out investigations to put an end to those illegal practices and to identify the perpetrators to ensure that they are brought to justice. We also note with concern the death sentences issued on 28 July, some in absentia, by the Tripoli Court of Assize against a number of detainees, including Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi.

While welcoming progress in terms of the investigations conducted in regard to crimes committed in Libya, we call upon the competent Libyan authorities to fully cooperate with the Office of the Prosecutor of the International Criminal Court to ensure that the detainees enjoy a fair trial, one that respects their right of defence. We take note of the initiative of the Prosecutor to gather new information so as to again consider the admissibility of the *Al-Senussi* case and thus to possibly to render a judgement at the International Criminal Court.

The insecurity sustained by the armed militias, the development of terrorism, the fresh outbreak of criminal activities, including human trafficking, and the lack of prospects for a political solution not only endanger the future of Libya, but also undermine all the institutions of State, including the judiciary. That is why we reiterate our call to all Libyan parties to make the necessary concessions to form a Government of national unity, one able to put an end to the conflict in a decisive way and to restore the authority of the State.

The chaotic situation currently prevailing in Libya is also marked by serious violations, including murders, abductions, torture and sexual violence, as well as the persecution of magistrates, politicians and other human rights defenders. Thousands of individuals have been caught up in violent fighting, and tens of thousands of others have fled their homes to seek refuge. That has been compounded by thousands of individuals detained without a trial, including African immigrants who have been subjected to inhuman and degrading treatment because of their race and their religion.

We energetically condemn all such violations and demand that those responsible be identified and brought to justice. To that end, the ICC, despite its limited resources, should explore the ways and means to be able to follow the situation closely, including by launching investigations for possible prosecution. In that respect, .the Security Council, which referred the situation in Libya to the ICC through resolution 1970 (2011), must back the efforts of the Court. We also call upon the States parties to the Rome Statute to do just the same.

In conclusion, we would like to reiterate our support to the work of the Prosecutor, and we wish to convey our appreciation for her untiring efforts aimed at discharging her mission.

Mr. Van Bohemen (New Zealand): Let me begin by congratulating you, Mr. President, and your team on the United Kingdom's assumption of the presidency of the Council for the month, and by thanking Spain and the Spanish delegation for the excellent work they did in conducting us in the month of October.

The situation in Libya is at a critical point. Reaching a political solution to the conflict is vital to the people of Libya now more than ever. We strongly urge the parties to conclude the Libyan political agreement, and we are looking forward to the briefing later this morning on the prospects for that final agreement.

I want to thank Ms. Bensouda for her report and her briefing. They are sobering. Violent deaths in Libya continue to increase month by month, and fighting in the south has displaced 12,000 people in just four months. We are particularly concerned that civilian areas, places of worship and medical facilities are repeatedly targeted, and minorities specifically so.

The Prosecutor's report makes plain that crimes are being committed on all sides of the conflict. It is also clear that the Islamic State in Iraq and the Levant (ISIL) and groups that have pledged allegiance to ISIL are playing a particularly destructive role. The Prosecutor's call for States to prosecute their nationals who are operating as foreign terrorist fighters in Libya resonates with the Council's own commitment to countering such actors. The Council has spoken clearly about the need to combat ISIL, including in Libya, and has created obligations in resolution 2178 (2014), which binds all Member States, whether or not they are parties to the Rome Statute, to prosecute foreign terrorist fighters. Member States have both an obligation to prosecute foreign terrorist fighters domestically and an obligation to afford one another the greatest measure of assistance in criminal investigations relating to support for terrorist acts. International cooperation and information exchange will be critical to effectively countering foreign terrorist fighters in Libya. We

welcome the commitment shown by the Prosecutor to supporting such efforts.

The instability and absence of State control in large parts of Libya make the pursuit of justice especially difficult. We recognize that the ability of the Prosecutor to expand investigations into other alleged crimes is hampered not only by the security situation but by a lack of resources. The Prosecutor is right to draw this Council's attention to that distinct barrier to her office pursuing investigations into ongoing crimes. In our view, the Council should support the mandates it gives to the Court. On matters of finances, it should defer to the General Assembly, which has the prerogative to decide on funding issues.

Despite the security challenges, we are pleased that the Prosecutor continues to receive cooperation from the Libyan Prosecutor General and the Libyan representative to the International Criminal Court (ICC), and that the memorandum of understanding is still being implemented. That groundwork should support Libya in meeting its obligation under resolution 1970 (2011) to cooperate fully with the Court. While Ms. Bensouda has not sought a review of the ICC's finding, which returned the prosecution of Al-Senussi to Libya, she is closely monitoring the domestic proceedings against him. Reports on those trials and allegations of torture in the detention centre where Al-Senussi is being held raised legitimate reasons for the Prosecutor to watch progress. We understand that Abdullah Al-Senussi will appeal his sentence, and we urge the Libyan authorities to ensure that due process requirements are followed.

We are concerned that despite its obligations to surrender him to the ICC, the Tripoli Court of Assize handed down a death sentence to Saif Al-Islam Al-Qadhafi in July. While Libya has since provided a formal explanation to the Court, including explaining the unenforceability of such in absentia judgments, the larger issue of Al-Qadhafi's surrender remains outstanding. While we recognize the challenges that Libya faces, its obligations to the Court, which were created by a resolution of the Council, are clear. We welcome Ms. Bensouda's assurance that the Court stands ready to support Libya in fulfilling that obligation.

While the report is difficult reading, the Prosecutor's Office should be commended for continuing to bear witness before the Council to the crimes in Libya. The Prosecutor's briefing today, coming immediately before a briefing on the political situation in Libya, should reinvigorate the Council's commitment to a political settlement and stability in Libya. As the Prosecutor notes in her report, a unity Government and durable peace present new hope for Libya's efforts to promote the rule of law, the protection of civilians and an end to impunity for atrocity crimes.

Mr. Ramírez Carreño (Bolivarian Republic of Venezuela) (*spoke in Spanish*): At the outset, we reiterate our congratulations to Spain on the extraordinary job it did during its presidency last month, and we offer our full support to the incoming United Kingdom presidency so that it can complete its mandate successfully.

The Bolivarian Republic of Venezuela thanks the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her introduction of the tenth report on the investigation into the situation in Libya, submitted pursuant to resolution 1970 (2011), and we wish to acknowledge and commend her on her outstanding work in Libya despite the constraints she faces.

Venezuela reaffirms its support for the role of the International Criminal Court in strengthening the rule of law at the international level in order to prosecute those responsible for flagrant violations of human rights and international humanitarian law, in accordance with the provisions of the Rome Statute. As a State party to the International Criminal Court since 2002, my country supports strengthening its institutional stature and its effective functioning. In that regard, we call on those countries that are not parties to the Rome Statute to accede to that instrument in order to make it universal.

For Venezuela, cooperation is essential to attaining the objectives of the Court, and requires the commitment of States to implementing its decisions and supporting its work. Strengthening the international criminal justice system established under the International Criminal Court requires State parties to refrain from actions that undermine its important functions in the fight against impunity. While reaffirming the importance of the ICC, we are concerned by the procedural expedition of several past cases, owing to political reasons, and the involvement of the Security Council in the referral of cases the jurisdiction over which falls to the International Criminal Court. Such was the case with Libya, which highlights the partiality of certain decisions that should be the purview of the international community.

Politicization has a negative effect on the role of the International Criminal Court and could unbermine its autonomy, independence, objectivity and impartiality — principles that must govern the exercise of its responsibilities. There can be no double standards in those cases; cases tried by the International Criminal Court must be resolved within the institutional structure of the Court, with the participation of members of the Assembly of States Parties to the Rome Statute, and not outside of it.

The situation of political instability resulting from the institutional collapse of the Libyan State, triggered by the military intervention of NATO countries in 2011, has severely affected the rule of law in that Arab nation and, in particular, its legal system. The lack of institutions and the confrontations among factions vying for control of the country hinder the functioning of the State. In that situation, we cannot speak of the existence of a legal system in Libya that guarantees due process for and the human rights of persons who have allegedly committed crimes.

Libya is a country that has sunk into deep chaos and widespread violence, which have been exploited by terrorists from the Islamic State in Iraq and the Sham, Al-Qaida and Ansar Al-Sharia to expand their criminal agenda throughout the country and neighbouring nations. Summary executions, the evidence of torture of members of the Al-Qadhafi family — as in the case of Saadi Al-Qadhafi — and former members of the Government of President Muammar Al-Qadhafi are part of a policy of cruel retaliation, in clear violation of the rule of law. The disappearance and persecution of human rights activists are glaring reminders of the ongoing violations of human rights that are recorded daily in Libya, to the detriment of its citizens — which would be hard to imagine if there were the rule of law to ensure due process to those tried for various crimes.

Venezuela therefore rejects the decision of the Tripoli Court of Assize last July, condemning Saif Al-Islam Al-Qadhafi, Abdullah Al-Senussi and other Libyan citizens to death in absentia, because there are no procedural safeguards to ensure a fair trial. That verdict has been rejected at the international level by various organizations, including the Human Rights Council. We therefore call on the Libyan authorities to cooperate with the International Criminal Court in order to transfer Saif Al-Islam Al-Qadhafi to The Hague, so that he can be brought to trial with due process and full respect for his human rights. Libya must ensure the implementation of resolution 1970 (2011), facilitating the transfer of Saif Al-Islam Al-Qadhafi to the ICC.

Paragraph 5 of resolution 1970 (2011) urges Libya and all States and concerned regional and other international organizations to cooperate fully with the Court and the Prosecutor, as ratified by resolutions 2174 (2014) and 2213 (2015), reiterating Libya's obligation to comply in full cooperation with the Court and to surrender Saif Al-Islam Al-Qadhafi to the immediate custody of the International Criminal Code, in order for him to be tried.

Although Mr. Bernardino León, Special Representative of the Secretary-General for Libya, has made significant efforts to promote an agreement, to date the institutional structure of the country has not yet recovered, nor have new institutions been established. Therefore, we cannot speak of the implementation of justice where existing standards do not ensure citizens the equal protection under the law.

Venezuela reiterates that inclusive political dialogue and the establishment of a Government of national unity are the bases for building a rule of law with solid legal institutions, through which we can ensure the promotion of and respect for human rights, including international standards of due process, the right to defence and the presumption of innocence as fundamental procedural guarantees.

In conclusion, we reiterate our full support for the efforts of the Special Representative of the Secretary General, Mr. Bernardino León — which we will extend to his successor Mr. Kobler — to attain a political solution and thereby ensure the restoration of peace to that brother African country, which is indispensable to rebuilding the institutional foundations destroyed by the war and foreign intervention in 2011, the aftermath of which continues to be felt today with the deplorable scenario of a fractured country fallen prey to terrorist groups, and of a population thirsting for peace and tranquillity.

Mrs. Juodkaitė Putrimienė (Lithuania): I wish to congratulate the United Kingdom on assuming the presidency of the Council for the month of November, and to thank Spain for its excellent work in presiding over the Council in October.

I would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her latest report on Libya and for her briefing today.

Lithuania remains deeply concerned about the ongoing conflict in Libya. Human rights violations and abuses and violations of international humanitarian law continue across Libya. All parties to the conflict have to refrain from committing atrocities and take all necessary measures to prevent the commission of such crimes. We are seriously concerned about the continuous threats to human rights defenders, media workers and journalists. Many human rights defenders and journalists have fled the country, fallen silent or operate underground because of the continued attacks, threats and intimidation, abductions and arbitrary detentions. We encourage the Prosecutor and her Office to continue to monitor this situation closely. Furthermore, the barbaric crimes perpetrated by Daesh and similar groups, including massive executions, may constitute crimes under the Court's jurisdiction and have to be further monitored by the Prosecutor.

We appreciate the Prosecutor's efforts to highlight the plight of internally displaced persons and, in particular, the situation of the Tawerghans. We welcome the meeting of the Misrata/Tawergha Joint Committee, held in Tunis early in September. The agreement to develop their return strategies and plans for reparations is a positive development. Ensuring the safe return and protection of the Tawerghans should be seen as an important element of national reconciliation.

Lithuania also welcomes and supports the ongoing dialogue on cooperation and burden-sharing between the Government of Libya and the Office of the Prosecutor. We would like to underline the importance of continuing such judicial cooperation in order to address impunity for atrocities, including through the implementation of the memorandum of understanding on burden-sharing regarding investigations and prosecutions in Libya.

Lithuania thanks the Prosecutor for her update on the cases against Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. Libya should uphold its legal obligations and surrender Saif Al-Islam Al-Qadhafi to the International Criminal Court. With regard to the verdicts and sentences announced in Tripoli last July against Saif Al-Islam Al-Qadhafi and other Qadhafi officials, we call on Libya to ensure that these steps do not undermine its responsibility and obligation to cooperate with the Court. We also note that the Prosecutor's Office will continue to monitor and collect information on the progress of the proceedings against Abdullah Al-Senussi. We are concerned about the allegations of torture and inhuman treatment during interrogation sessions at the Al-Habda prison, where Al-Senussi is also being held. We encourage the Libyan authorities to take measures to put an end to degrading treatment and torture, if such acts do occur, and to investigate and punish those responsible.

Allow me to conclude by expressing our gratitude to Prosecutor Bensouda for her dedicated work and for the tireless efforts of the International Criminal Court in dealing with enormously difficult cases. Let me underline that combating impunity is an obligation of the entire international community. Therefore, the United Nations has to ensure that adequate resources are available for investigating the situations referred to the Court by the Security Council.

Ms. Sison (United States of America): I would like to thank Prosecutor Bensouda for the briefing on the work of her Office to help end impunity for atrocity crimes in Libya.

In the past few months in particular, Libyans have engaged constructively with the political dialogue process facilitated by Special Representative of the Secretary-General Bernardino León, and have taken important steps towards finalizing a political settlement and establishing a Government of national accord. However, it is critical that the parties endorse the political agreement and establish a unity Government now, without delay. Libya cannot lose this opportunity and the international community needs a Government partner in Libya.

As Secretary John Kerry said, finalizing this arrangement can help return Libya to a path of peace, stability and prosperity, and the United States stands ready to support a new Government of national accord. Libya's political strife has exacerbated existing humanitarian, economic and security challenges, while the lack of effective domestic accountability mechanisms has allowed militias and armed groups to operate unrestrained, committing serious human rights abuses and violations of international humanitarian law against ordinary Libyans. In particular, those who try to shed light on these abuses, especially civil society activists, media actors and female human rights defenders, have been singled out, forcing them to either leave Libya or go underground.

We commend the efforts of those who are documenting these abuses and violations, including in the many detention facilities throughout Libya,

recognizing that the continued violence and instability in Libya make such work all the more dangerous but ever more important. The United States remains deeply concerned about the growing presence in Libya of groups aligned with the Islamic State in Iraq and the Levant (ISIL) and other extremists. We strongly condemn the ongoing violent acts against civilians by these groups in Sirte, Derna and Benghazi. All of these abuses highlight the stakes of the conflict in Libya and the urgent need to establish a Government of national accord, which can be a constructive partner in addressing all of these challenges, as well as irregular migration and other regional challenges, and develop the strong institutions in international partnerships that Libya needs.

The Council has called for those responsible for violations of international humanitarian law and violations and abuses of human rights in Libya to be held to account. This is absolutely critical to the way forward in Libya. We must seek justice, not only for crimes committed by the Al-Qadhafi regime but, as new events have arisen in Libya, we must also purse justice for crimes committed by ISIL-aligned groups and other extremists. That is one reason that a strong and unified Libyan Government is so urgently needed, so that the extremist threat can be adequately addressed, including through domestic Libyan prosecution. We also encourage other relevant States to prosecute foreign fighters involved with such groups for atrocity and other crimes, where appropriate.

With respect to the situation before the International Criminal Court, we continue to support the Council's unified call for Libya to fulfil its obligation to cooperate with and provide assistance to the Court and the Prosecutor. We note,in particular, Libya's obligation to transfer Saif Al-Islam Al-Qadhafi to the ICC, and we urge Libya to refrain from any further proceedings against Al-Qadhafi that would pose any obstacle to his transfer to the Court. We also continue to stress, more generally, that national proceedings in Libya should be conducted in full compliance with Libya's international obligations.

To achieve national reconciliation, it will be important to ensure the confidence of all Libyan citizens in their Government's commitment to due process and the rule of law, and that those responsible for serious crimes are held accountable. As Libya and the international community work towards a political agreement, we cannot forget that accountability for crimes in Libya will be key to achieving lasting peace and stability.

I thank Prosecutor Bensouda and her Office, once again, for their work over the past six months and since 2011, when the Council referred the situation in Libya to the ICC. The United States looks forward to continuing to work with the Council, the ICC, a new Government of national accord and others to end the violence, promote justice and build sustainable peace in Libya.

Mr. Zagaynov (Russian Federation) (*spoke in Russian*): At the outset, we, too, would like to thank the delegation of Spain for having led the work of the Council in October and wish the current President every success this month.

We have taken note of the tenth report of the Prosecutor of the International Criminal Court (ICC) regarding the investigation of the situation in Libya, and we thank Ms. Bensouda for her comments.

In 2011, when the Security Council decided to refer the Libyan situation to the ICC, a number of our colleagues said that involving the Court would help to end the wave of violence, bring to justice to all those guilty of the worst crimes, and thereby prevent future crimes. Unfortunately, as the report confirms, that did not happen. The situation in the country did not stabilize and the increase in violence continues. The horrendous list of crimes in the Prosecutor's report is not growing any shorter. It includes the abduction and murder of civilians, illegal arrests and detention, the torture of detainees, to which we must now add the mass executions and other evil deeds committed by the Islamic State of Iraq and the Levant (ISIL).

We have studied the information in the report regarding the individuals active in the Libyan case. The Prosecutor of the ICC reiterated that it intends to handle the situation of Abdullah Al-Senussi and, if required, to request a review of the Court's ruling pronouncing Libya capable of conducting an investigation in that case. In that regard, the report again concludes that there are insufficient grounds to transmit such a request, despite the information regarding the practice of torture and sexual violence in prison and despite the death sentence imposed on Abdullah Al-Senussi on 28 July by the court in Tripoli.

To strengthen the Court's standing, its ability to conduct unbiased investigations of the actions of all the parties to a conflict, including in Libya, is of

key importance. No significant steps forward have been noted in that regard. As we have noted, there is sufficient information regarding alleged crimes, not only by former partisans of Muammar Al-Qadhaffi but by other participants to the conflict, including the rebels and now, of course, ISIL. However, the report does not refer to any real procedural steps concerning them. We have only dry statistics and lists of figures regarding civilian deaths. Russia hopes that in the future the Court will address this more concretely. The calls for continued investigations of civilian deaths resulting from NATO air strikes also went unheard.

We take note of information in the report regarding cooperation between the Libyan authorities and the Prosecutor of the ICC. In that context, I would like to stress the importance of forging and strengthening cooperation with those States in which investigations are conducted for the successful discharge of the Court's mandate. We have noted that, in her comments today, the Prosecutor referred to so-called atrocity crimes. As is well known, neither the Rome Statute nor the corpus of international law contains or has defined such a category of crime. In that respect, we consider it important to adhere to the terminology agreed by States, including within the framework of work on the Rome Statute.

By way of conclusion, we hope that the Prosecutor of the ICC, within the framework of further procedural steps, will take into full account the need for a settlement in Libya, whose foundation should be the restoration of statehood and a process of national reconciliation, and which should also pay due attention to investigating crimes committed by all sides to the conflict.

Mr. González de Linares Palou (Spain) (*spoke in Spanish*): I would like, at the outset, to thank you, Sir, and through you to thank all our colleagues for their very kind words regarding Spain's recent presidency of the Council. I wish to assure you and your entire team, Mr. President, of our full support during your mandate. You know you can count on our full support.

I would also like to express our thanks to the Prosecuor of the International Criminal Court (ICC) for her presence here today and for the full and detailed briefing she provided on the situation in Libya. Spain wishes to commend the very valuable work of the Court and in particular of the Prosecutor. We know that she is working under very difficult conditions for the members of her Office. We also wish to express our support for her investigations of the crimes currently being committed in Libya and to offer our cooperation in that regard.

The unanimous message conveyed by the adoption of resolution of 1970 (2011) must not be allowed to remain mere words. The Security Council has reiterated on numerous occasions and in its resolutions the importance of holding those responsible for violations of international humanitarian law and human rights accountable for their actions. We cannot tolerate impunity. It is incompatible with true reconciliation and sustainable peace. Nor can we be indifferent to the horrors that the people of Libya are suffering on a daily basis or to the contempt all parties to the conflict have shown for international law. Reports of indiscriminate attacks on the civilian population, including abductions, assassinations, illegal arrests, torture and other crimes, is disheartening. Spain firmly condemn each and every one of those barbaric acts, with particular stress on the particularly cruel acts of Daesh and its affiliates. Once again, we call on all parties and their allies to comply with their obligations under international law, international humanitarian law and international refugee law.

With regard to the relationship between Libya and the International Criminal Court, we are grateful for the updated information on the case of Saif Al-Islam Al-Qadhafi and the case of Abdullah Al-Senussi. Concerning the former, we wish to recall the decision by the Court's Pre-Trial Chamber I, of 10 December 2014, noting Libya's non-cooperation, in particular with respect to handing over Saif Al-Islam Al-Qadhafi to the Court. We strongly condemn the continuation of his trial in the Libyan courts and the death penalty imposed on him on 28 July. We repeat that he must be immediately handed over to the International Criminal Court in accordance with the obligations under resolution 1970 (2011) and other resolutions of the Council, which reiterate that compliance is mandatory. The foregoing does not detract from the value of the ongoing dialogue between the Libyan Government and the International Criminal Court and the cooperation taking place in implementing the memorandum of understanding of 2013, especially by the Prosecutor General and the representative of Libya to the Court.

Turning now to the second situation, the case of Abdullah Al-Senussi, we are concerned that he was condemned to death and about the allegations that torture was used during his interrogation. We will closely follow the information provided by the Prosecutor and

we note the possibility that the Court may review its decision with respect to the admissibility of his case in accordance with the provisions of the Rome Statute.

Let me now turn briefly to the resources available to the Office of the Prosecutor. We note that the current scarcity of resources is making it difficult for the Office to conduct its investigations. We should remember once again that the costs of referrals are being covered only by States parties to the Rome Statute and that article 13 of the relationship agreement between the United Nations and the ICC has still not been implemented.

In conclusion, we are absolutely convinced that there is no military solution to the crisis in Libya. Only a political agreement among the parties can guarantee the stability that the country needs. We support the efforts of the United Nations and of Special Representative of the Secretary-General Bernardino León. We welcome the appointment of Mr. Martin Kobler as the new Special Representative. We reiterate our call to all parties to refrain from all acts of violence. We furthermore call on them, in a spirit of reconciliation, to conclude the process of dialogue under the auspices of the United Nations. That will enable them to approve the political agreement that will permit the formation of a Government of national accord that can establish the basis for the country's reconstruction. Such an agreement will also help restore to the Libyan people the stability and security that can guarantee the rule of law, the end of impunity, justice for victims and the protection of the fundamental rights of all the country's inhabitants.

Mr. Hmoud (Jordan) (*spoke in Arabic*): I would like to extend my thanks to Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her briefing and for the tenth report submitted to the Security Council pursuant to resolution 1970 (2011). Jordan reiterates its support for the ICC, which is a critical pillar in the promotion of criminal justice. Its work contributes to putting an end to impunity during armed conflicts, maintaining international peace and security and promoting the rule of law.

We welcome the ongoing consultations between the Libyan Government and the Office of the Prosecutor of the ICC. We affirm that the Court will succeed in undertaking and discharging its mandate pursuant to resolution 1970 (2011), which depends largely on cooperation between the two sides. In this respect, we appreciate all the efforts made by the Libyan Government to cooperate with the Court so far. We call on the Libyan Government to continue to provide all the facilities and logistical support necessary to collect evidence and conduct investigations and ensure coordination and information exchange as well as the arrest and surrender of all perpetrators of crimes.

It is imperative that all parties to the Rome Statute cooperate with and assist the Court in the discharge of its mandate and in support of its jurisdiction, in accordance with their obligations under the Statute. The scale of the challenges faced by Libya today is daunting, and we see the negative repercussions of these challenges on neighbouring countries. The numbers of the displaced and asylum seekers are increasing in view of the atrocious, inhumane practices that are taking place in the country, namely, killing, kidnapping, torture, arbitrary arrest by criminal and armed groups, in particular the Islamic State in Iraq and the Levant.

It is crucial that Libya continue to promote the rule of law and ensure that all perpetrators of crime be held liable without exception, in accordance with international standards in the areas of prosecution and justice, with a view to ensuring stability in the country and supporting the political process there. We need to assist Libya in confronting and prosecuting the perpetrators of crimes committed on its territory, and should provide the country with every possible means to address these crimes, which are affecting not just Libya but all of its neighbours as well.

In conclusion, we reiterate the need for the international community to provide every type of support to the constitutional and other legitimate authorities in the country so that they can meet their obligation to build a new democratic Libya while taking into account the need for all actors to work together to enable the Libyan State to assert control and sovereignty over the entire territory of Libya.

Mrs. Adnin (Malaysia): I thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC) for presenting her tenth report on Libya pursuant to resolution 1970 (2011). Since Prosecutor Bensouda's last briefing to the Security Council, in May earlier this year (see S/PV.7441), the political situation in Libya has not shown much improvement while the security conditions have worsened. According to the Prosecutor's report, civilian deaths increased in the period running from April to August 2015, abductions and executions continue to be reported, and the number

of displaced persons has reached almost 450,000 people, which is close to double the figure reported just over a year ago.

We are particularly concerned by the Prosecutor's report that extremely grave crimes are being committed not only by the Islamic State in Iraq and the Levant (ISIL) and Islamic groups but also by all parties to the conflict as well as their respective allies. The indiscriminate attacks, assassinations, large-scale abductions, acts of torture, and executions have all led to civilian casualties. At the same time, heavy military clashes between the conflicting parties have also continued to cause civilian deaths, with no signs of abating.

Malaysia is equally concerned that civilian casualties attributed to ISIL are consistently growing. The Prosecutor has reported that mass executions, suicide bombing and terrorist attacks committed by ISIL and affiliated groups have resulted in heavy civilian casualties. We strongly deplore these indiscriminate acts of violence committed by ISIL. Malaysia reaffirms that the perpetrators responsible for committing these grave atrocities must be held accountable. The culture of impunity must not be allowed to prevail any further.

Malaysia is of the view that the continued efforts of the Libyan authorities to comply with the relevant Security Council resolutions would contribute positively towards building trust and confidence, especially with respect to their commitment to hold to account individuals and parties responsible for grave violations of international human rights law and international humanitarian law. At the same time, we acknowledge that the ability of the Libyan authorities to investigate and prosecute the perpetrators of these atrocity crimes and to continue its cooperation will depend largely on the stability of Libya.

In this regard, Malaysia reiterates the importance for all parties to the conflict to engage constructively in the ongoing dialogue facilitated by the United Nations, finalize the political agreement and immediately agree on a Government of National Accord. We are of the view that the formation of a Government of national accord that enjoys the full backing of the international community is a crucial first step in our collective efforts to address a wide range of challenges currently being faced by Libya, including combating impunity, addressing the humanitarian conditions and promoting the rule of law in the country.

I would like to conclude by taking this opportunity to express our gratitude to Mr. Bernardino León for his tireless efforts in facilitating the ongoing peace talks under very difficult circumstances in Libya. I reiterate our full support for the dialogue process facilitated by the United Nations and look forward to working closing with the new Special Representative of the Secretary-General and Head of the United Nations Support Mission in Libya, Mr. Martin Kobler.

Mr. Zhao Yong (China) (*spoke in Chinese*): I wish to thank Ms. Bensouda for her briefing.

China has been closely watching the developments in Libya. The fundamental way to resolve the Libyan issue lies in political dialogue, and any settlement should respect the will and choice of the Libyan people and maintain the sovereignty, independence and territorial integrity of the country.

China hopes that the parties concerned in Libya will prioritize the interests of the Libyan nation and its people, seize the opportunity presented, value the results of dialogue already achieved and continue to engage in negotiation and consultation to ease differences, with a view to reaching an early political agreement to establish a Government of national accord and restoring national security and stability. That is the prerequisite and foundation for the realization of judicial justice in Libya.

China's position with regard to international judicial institutions remains unchanged.

Mr. Stehelin (France) (*spoke in French*): I would like to begin by congratulating the Spanish delegation on its outstanding leadership last month and assure you, Mr. President, of the French delegation's full support in your work.

At the outset, I would like to thank Prosecutor Bensouda for her tenth report and her briefing, and to affirm France's support for the Prosecutor and the International Criminal Court (ICC) as a whole. While the Council was able to adopt resolution 1970 (2011) unanimously, giving the ICC one of the most important tasks there can be, Ms. Bensouda's briefing confirms the importance of ensuring that the Council remain mobilized to help Libya — which is still going through a period of instability and uncertainty whose chief victims are Libyans themselves — get back on a path to civic peace and justice. A careful reading of her tenth report compels three conclusions.

The first is the importance of continuing to appeal to the Libyan authorities to cooperate with the Court above all. That cooperation will be crucial to ending a long period of impunity in Libya and enabling the Court to fulfil its mandate. The Court had jurisdiction to try Mr. Saif Al-Islam Al-Qadhafi and requested his surrender to the Court in accordance with the arrest warrant issued on 27 June 2011. The Tripoli Court of Assize's death sentence for Mr. Al-Qadhafi, handed down on 28 July, is doubly regrettable in that regard, and the Security Council must step up its efforts to ensure that Mr. Al-Qadhafi is surrendered to the Court. Resolution 2238 (2015) of 10 September also takes due note of the request of the Prosecutor to the Pre-Trial Chamber dated 30 July that Libya immediately surrender Saif Al-Islam Al-Qadhafi to the Court.

Concerning Abdullah Al-Senussi, on 11 October 2013 Pre-Trial Chamber I decided that his case was inadmissible before the Court. However, France shares the concerns expressed by several of our colleagues and the Office of the Prosecutor about the allegations of torture of Mr. Al-Senussi in Al-Hadba prison. Here we should recall the relevant provisions of resolution 2238 (2015), which condemns the acts of torture, mistreatment and deaths by torture inflicted in some detention centres in Libya. We should also note the pronouncements made on 28 July by the United Nations High Commissioner for Human Rights regarding lack of respect for the right to a fair trial as guaranteed by international law. The Prosecutor's Office emphasizes that if those allegations are true, they could justify a reopening of the case on the basis of the relevant articles of the Rome Statute. We should all remain very vigilant on this point.

France notes that despite the prevailing instability in Libya, the Prosecutor has managed to have discussions with Libya's Prosecutor General and has continued to implement the memorandum of understanding on burden-sharing between the Court and the Libyan authorities, signed in November 2013, and she notes that this is a positive and encouraging sign.

Our second conclusion is that we cannot allow the multiple crimes committed since 15 February 2011 to go unpunished. In that regard, France paid particularly close attention to the paragraph in the report that emphasizes that the crimes attributed to members of Daesh fall under the prima facie jurisdiction of the Court, on the basis of resolutions 2213 (2015) and 2238 (2015). We can only encourage Prosecutor Bensouda to pursue her investigations and inquiries into such crimes, which are an outrage to the human conscience.

Our third and last conclusion is that we must provide practical support to the Libyan authorities, particularly in the area of justice and rebuilding the rule of law. That goal makes the formation of a Government of national unity more urgent than ever. After months of negotiations, and thanks to the efforts of the Special Representative of the Secretary-General, Mr. Bernardino León, a compromise on a final text was reached and capped by the announcement of the formation of a national unity Government headed by Mr. Fayez Sarraj as Prime Minister. There is no time left to lose. We urge all the parties to endorse the political agreement in order to immediately enable the formation of a Government of national unity. That is the only way that peace and stability can be restored in Libya, as its people are demanding.

In that regard, we welcome the appointment of Mr. Martin Kobler as Special Representative of the Secretary-General. France reaffirms its full support for the United Nations mediation in Libya and will support the efforts of Mr. Kobler as it has those of Mr. León, whom we thank for his work. Through tenacity and dedication he has succeeded in making major steps towards an inter-Libyan agreement.

The challenges and expectations in Libya are still huge, both for the International Criminal Court and the Libyan authorities. The Prosecutor has demonstrated her full willingness to act. It is up to the Council to do everything possible to facilitate the success of an inter-Libyan political dialogue and to help the Libyan authorities cooperate fully with the Prosecutor.

The President: I shall now make a statement in my capacity as representative of the United Kingdom.

I thank the Prosecutor of the International Criminal Court (ICC) for her tenth report on Libya and for her statement today.

I join others in expressing our deep concern about the ongoing conflict in Libya. The lack of security is having a clear adverse impact on the Prosecutor's investigation. The United Kingdom shares the Prosecutor's concerns set out in her report. Extremely grave crimes are still being committed by all parties and their allies. Civilian deaths are still increasing, and violence is still being used to try to achieve political goals. We condemn all these acts. We echo the Prosecutor's call for States to investigate and take action against nationals of their

countries who may have committed crimes in Libya. The violence must stop; there can be no military solution to the current crisis. We call on all Libyans, political parties and civil society alike, to support the ongoing efforts of the United Nations. A political settlement establishing a Government of national accord is long overdue. A political settlement remains the best way to bring peace and security to the Libyan people and to tackle the terrorist and extremist threat.

Tackling impunity for atrocities will also be important in the coming months. Judicial cooperation between the Office and Libyan authorities is vital in that regard. We encourage the Libyan Prosecutor General and the Libyan representative to the Court to continue to engage with the Prosecutor. We also urge all States to support the Prosecutor in her investigation and to assist the Libyan authorities in their efforts to build the rule of law.

We thank the Prosecutor for her briefing on the cases against Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. We are concerned about the reports of torture and inhumane acts in Al-Hadba prison, and we support the action taken by the Prosecutor with the Libyan authorities. We note that the Prosecutor's Office is still of the view that the case against Mr. Al-Senussi remains inadmissible. We are also concerned about the death sentence handed down to Mr. Al-Qadhafi. Libya has failed to comply with requests for cooperation by the ICC, including its request for Mr. Al-Qadhafi's surrender. We reiterate that Libya is obliged to cooperate fully with the ICC and the Prosecutor, as set out in resolutions 2213 (2015) and 2238 (2015), and we call on Libya to surrender Mr. Al-Qadhafi without delay. We look forward to the Prosecutor's further views following receipt of the report of the United Nations Support Mission in Libya on Mr. Al-Qadhafi and Mr. Al-Senussi's trials, the full judgement of the Libyan court and other relevant information.

We note the Prosecutor's concerns regarding resources and recognize the financial and capacity constraints faced by her Office. We are working to arrive at a budget outcome that will both meet the needs of the Court and be sensitive to the resources available.

I now resume my functions as President of the Council.

I now give the floor to the representative of Libya.

Mr. Dabbashi (Libya) (*spoke in Arabic*): At the outset, I would like to congratulate you, Mr. President, on your assumption of the presidency for the month of November. I would also like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her important briefing this morning.

To be honest, I do not have much to add to what I said at the Council's 7441st meeting of 12 May. I would, however, like to reaffirm that Libya is wedded to the principle of complementarity among issues addressed at the national level and by the ICC, despite the fact that we are not a party to the Rome Statute. That is because we wish to see justice prevail and confront impunity, especially regarding crimes covered under the Rome Statute.

I can confirm that Libya's judicial institutions are committed to fulfilling their obligations under national and international law, despite the dangers and pressure they find themselves in, particularly the Office of Libya's Prosecutor General, which is based in an area that is controlled not by the State but by militias. In that regard, it is necessary to point out that the Ministry of Justice of the provisional Libyan Government announced its rejection of the sentence, issued on 28 July, by the Court of Assize with regard to the former officials of the Al-Qadhafi regime. The Government does not believe that one can talk about independent justice or a fair trial when trials are held in regions controlled by outlaw militias.

The Libyan authorities want to guarantee accountability, fight against impunity and strengthen the rule of law. They have repeatedly reaffirmed their commitment to investigate all crimes committed and to punish those responsible. The Libyan Government condemns all human rights violations, regardless of who the perpetrators are. However, the Government would like to emphasize that no Libyan Government will be in a position to control the security situation and ensure respect for human rights and justice as long as the capital, Tripoli, is occupied by outlaw militias. The Government will remain unable to successfully carry out its mission as long as its institutions cannot work in a climate of security. The prisons will not submit themselves to the authority of the State as long as resolution 2214 (2015) is not implemented and as long as Libyan army units and security elements are not in a position to obtain weapons.

In spite of the foregoing, the Government of Libya welcomes the continued cooperation between the Office of the Prosecutor of the International Criminal Court and the Office of the Prosecutor-General of Libya.

Before I conclude, I would like to draw the Council's attention to the following. In various statements delivered by a number of Council members we heard that there was racial discrimination in Libya. There was a reference to the detention of our sub-Saharan brothers as a result of the colour of their skin. That is wrong and does not exist in Libya. Differences in skin colour mean nothing in Libya, especially since a large number of Libyan citizens are black. They have always held high positions and it is enough for me to point out that the Head of the Libyan Government is black. The same is true for the Head of the Libyan Air Force. To claim anything else is simply wrong. Unfortunately, those rumours started in 2011, at the beginning of the revolution, when Al-Qadhafi enlisted a number of sub-Saharan workers to face down the revolution. That was later used to undermine Libya and its relations with other African States. Those who entered the country legally were protected from human traffickers and violence. There are tens of thousands of African brothers who live and work in Libya under the protection of Libyan families.

The meeting rose at 11.05 a.m.